

TITLE 410 INDIANA DEPARTMENT OF HEALTH

Final Rule

LSA Document #21-390(F)

DIGEST

Amends 410 IAC 32-1-12, 410 IAC 32-1-28, 410 IAC 32-1-48, 410 IAC 32-1-49, 410 IAC 32-1-72, 410 IAC 32-4-5, and 410 IAC 32-4-9 to make numerous technical changes to general provisions and reference the dust-lead threshold levels established by the United States Environmental Protection Agency. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

410 IAC 32-1-12; 410 IAC 32-1-28; 410 IAC 32-1-48; 410 IAC 32-1-49; 410 IAC 32-1-72; 410 IAC 32-4-5; 410 IAC 32-4-9

SECTION 1. 410 IAC 32-1-12 IS AMENDED TO READ AS FOLLOWS:

410 IAC 32-1-12 "Clearance levels" defined

Authority: IC 16-41-39.8-6

Affected: IC 16-41-39.8

Sec. 12. "Clearance levels" means values that indicate the maximum amount of lead permitted in dust on a surface following completion of a remediation activity. **Clearance may only be achieved by confirming that the lead level of any surface component is lower than the hazard level for that same building component.** (*Indiana Department of Health; 410 IAC 32-1-12; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1433; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; readopted filed Jul 14, 2011, 11:42 a.m.: 20110810-IR-410110253RFA; filed Dec 20, 2011, 1:51 p.m.: 20120118-IR-410100734FRA; readopted filed Sep 13, 2017, 4:08 p.m.: 20171011-IR-410170339RFA*) NOTE: Transferred from the Air Pollution Control Board (326 IAC 23-1-8) to the Indiana State Department of Health (410 IAC 32-1-12) by P.L.57-2009, SECTION 17, effective July 1, 2009.

SECTION 2. 410 IAC 32-1-28 IS AMENDED TO READ AS FOLLOWS:

410 IAC 32-1-28 "Dust-lead hazard" defined

Authority: IC 16-41-39.8-6

Affected: IC 16-41-39.8

Sec. 28. (a) "Dust-lead hazard" means surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding ~~forty (40) micrograms per square foot on floors and other horizontal surfaces, two hundred fifty (250) micrograms per square foot on interior window sills, and four hundred (400) micrograms per square foot for window troughs based on wipe samples.~~ **the hazard threshold set forth by the United States Environmental Protection Agency, 40 CFR Part 745*, effective March 8, 2021.**

(b) A dust-lead hazard is present in a residential dwelling or child-occupied facility:

(1) in a residential dwelling on floors, interior window sills, and other horizontal surfaces when the weighted arithmetic mean lead loading for all single surface or composite samples of floors, interior window sills, and other horizontal surfaces are equal to or greater than ~~forty (40) micrograms per square foot for floors, two hundred fifty (250) micrograms per square foot for interior window sills, and four hundred (400) micrograms per square foot for window troughs~~ **the hazard threshold set forth by the United States Environmental Protection Agency, 40 CFR Part 745*, effective March 8, 2021;**

(2) on floors and interior window sills, in an unsampled residential dwelling in a multifamily dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one (1) sampled residential unit on the property; and

(3) on floors and interior window sills in an unsampled common area in a multifamily dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one (1) sampled common area in the same common area group on the property.

***This document is incorporated by reference. Sales of the Code of Federal Regulations are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.** (*Indiana Department of*

Health; 410 IAC 32-1-28; filed Sep 10, 2003, 4:24 p.m.: 27 IR 462; readopted filed Jul 14, 2011, 11:42 a.m.: 20110810-IR-410110253RFA; filed Dec 20, 2011, 1:51 p.m.: 20120118-IR-410100734FRA; readopted filed Sep 13, 2017, 4:08 p.m.: 20171011-IR-410170339RFA) NOTE: Transferred from the Air Pollution Control Board (326 IAC 23-1-21.5) to the Indiana State Department of Health (410 IAC 32-1-28) by P.L.57-2009, SECTION 17, effective July 1, 2009.

SECTION 3. 410 IAC 32-1-48 IS AMENDED TO READ AS FOLLOWS:

410 IAC 32-1-48 "Lead-contaminated dust" defined

Authority: IC 16-41-39.8-6

Affected: IC 16-41-39.8

Sec. 48. "Lead-contaminated dust" means surface dust in residential dwellings or child-occupied facilities that contain an area or mass concentration of lead at, or in excess of, levels identified by the ~~U.S. EPA under TSCA Section 403, 15 U.S.C. 2683*~~ **United States Environmental Protection Agency, 40 CFR Part 745*, effective March 8, 2021.**

~~*Copies of the Toxic Substances Control Act (TSCA) may be obtained from the Government Printing Office, Washington, D.C. 20402. Copies of pertinent sections are also available for copying at the Indiana Department of Health, Indiana Lead and Healthy Homes Program, Fifth Floor, 2 North Meridian Street, Indianapolis, Indiana 46204.~~

***This document is incorporated by reference. Sales of the Code of Federal Regulations are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.** (Indiana Department of Health; 410 IAC 32-1-48; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1436; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Jun 14, 2010, 10:11 a.m.: 20100630-IR-410100396ACA; readopted filed Jul 14, 2011, 11:42 a.m.: 20110810-IR-410110253RFA; readopted filed Sep 13, 2017, 4:08 p.m.: 20171011-IR-410170339RFA; errata filed Jul 28, 2021, 12:09 p.m.: 20210811-IR-410210327ACA) NOTE: Transferred from the Air Pollution Control Board (326 IAC 23-1-38) to the Indiana State Department of Health (410 IAC 32-1-48) by P.L.57-2009, SECTION 17, effective July 1, 2009.

SECTION 4. 410 IAC 32-1-49 IS AMENDED TO READ AS FOLLOWS:

410 IAC 32-1-49 "Lead-contaminated soil" defined

Authority: IC 16-41-39.8-6

Affected: IC 16-41-39.8

Sec. 49. "Lead-contaminated soil" means bare soil on residential real property and on the property of a child-occupied facility that contains lead at, or in excess of, levels identified by the ~~U.S. EPA under TSCA, Section 403, 15 U.S.C. 2683*~~ **United States Environmental Protection Agency, 40 CFR Part 745*, effective March 8, 2021.**

~~*Copies of the Toxic Substances Control Act (TSCA) may be obtained from the Government Printing Office, Washington, D.C. 20402. Copies of pertinent sections are also available for copying at the Indiana Department of Health, Indiana Lead and Healthy Homes Program, Fifth Floor, 2 North Meridian Street, Indianapolis, Indiana 46204.~~

***This document is incorporated by reference. Sales of the Code of Federal Regulations are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.** (Indiana Department of Health; 410 IAC 32-1-49; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1436; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Jun 14, 2010, 10:11 a.m.: 20100630-IR-410100396ACA; readopted filed Jul 14, 2011, 11:42 a.m.: 20110810-IR-410110253RFA; readopted filed Sep 13, 2017, 4:08 p.m.: 20171011-IR-410170339RFA; errata filed Jul 28, 2021, 12:09 p.m.: 20210811-IR-410210327ACA) NOTE: Transferred from the Air Pollution Control Board (326 IAC 23-1-39) to the Indiana State Department of Health (410 IAC 32-1-49) by P.L.57-2009, SECTION 17, effective July 1, 2009.

SECTION 5. 410 IAC 32-1-72 IS AMENDED TO READ AS FOLLOWS:

410 IAC 32-1-72 "Soil-lead hazard" defined

Authority: IC 16-41-39.8-6

Affected: IC 16-41-39.8

Sec. 72. (a) "Soil-lead hazard" means bare soil on residential real property or on the property of a child-occupied facility that contains total lead ~~equal to at, or exceeding four hundred (400) parts per million in a play area or average of one thousand two hundred (1,200) parts per million of bare soil in the rest of the yard based on soil samples in excess of, levels identified by the United States Environmental Protection Agency, 40 CFR Part 745*, effective March 8, 2021.~~

(b) A soil-lead hazard is present:

(1) in a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than ~~four hundred (400) parts per million levels identified by the United States Environmental Protection Agency, 40 CFR Part 745*, effective March 8, 2021;~~ or

(2) in the rest of the yard when the arithmetic mean lead concentration from a composite sample or composite samples of bare soil from the rest of the yard, including nonplay areas, for each residential building on a property equal to or greater than ~~one thousand two hundred (1,200) parts per million levels identified by the United States Environmental Protection Agency, 40 CFR Part 745*, effective March 8, 2021.~~

(c) If the soil is removed, it shall:

(1) be replaced by soil with a lead concentration as ~~close to local background~~ low as practicable, but not greater than ~~four hundred (400) parts per million levels identified by the United States Environmental Protection Agency, 40 CFR Part 745*, effective March 8, 2021;~~ and

(2) not be used as top soil at another residential property or facility.

(d) If the soil-lead hazard is equal to or exceeds ~~five thousand (5,000) parts per million levels identified by the United States Environmental Protection Agency, 40 CFR Part 745*, effective March 8, 2021,~~ the soil-lead hazard must be remediated using an abatement activity.

***This document is incorporated by reference. Sales of the Code of Federal Regulations are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. (Indiana Department of Health; 410 IAC 32-1-72; filed Sep 10, 2003, 4:24 p.m.: 27 IR 465; readopted filed Jul 14, 2011, 11:42 a.m.: 20110810-IR-410110253RFA; filed Dec 20, 2011, 1:51 p.m.: 20120118-IR-410100734FRA; readopted filed Sep 13, 2017, 4:08 p.m.: 20171011-IR-410170339RFA) NOTE: Transferred from the Air Pollution Control Board (326 IAC 23-1-60.6) to the Indiana State Department of Health (410 IAC 32-1-72) by P.L.57-2009, SECTION 17, effective July 1, 2009.**

SECTION 6. 410 IAC 32-4-5 IS AMENDED TO READ AS FOLLOWS:

410 IAC 32-4-5 Abatement procedures for abatement activities

Authority: IC 16-41-39.8-6

Affected: IC 16-41-39.8

Sec. 5. An abatement shall be conducted only by a person licensed by the department to remove lead-based paint. An abatement shall be conducted as follows:

(1) A licensed supervisor is required for each abatement project and shall be on-site and responsible for direct supervision of workers during all:

(A) work site preparation;

(B) abatement activities; and

(C) post-abatement cleanup of work areas.

Lead-based paint workers shall have access to the supervisor throughout the duration of the project.

(2) The licensed supervisor and the licensed contractor employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of this section and all other federal, state, and local requirements.

(3) Notification of the commencement of lead-based paint abatement activities in target housing or a child-occupied facility or as a result of a federal, state, or local order shall be given to the department prior to the commencement of abatement activities as provided in section 6 of this rule.

(4) A written occupant protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures:

(A) The occupant protection plan shall:

(i) be unique to each residential dwelling or child-occupied facility;

(ii) be developed prior to the abatement; and

(iii) describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.

(B) A licensed supervisor or project designer shall prepare the occupant protection plan.

(5) The work practices shall be restricted during an abatement as follows:

(A) Open-flame burning or torching of lead-based paint is prohibited.

(B) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with HEPA exhaust control that removes particles of three-tenths (0.3) micron or larger from the air at

ninety-nine and ninety-seven hundredths percent (99.97%) or greater efficiency.

(C) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling not more than two (2) square feet in any one (1) room, hallway, or stairwell or totaling not more than twenty (20) square feet on exterior surfaces.

(D) Operating a heat gun on lead-based paint is permitted only at temperatures below one thousand one hundred (1,100) degrees Fahrenheit.

(6) If conducted, soil abatement shall be conducted as follows:

(A) If soil is removed, the lead-contaminated soil shall be replaced with soil with a lead concentration as ~~close to local background~~ **low** as practicable, but not greater than ~~four hundred (400) parts per million levels identified by the United States Environmental Protection Agency, 40 CFR Part 745*, effective March 8, 2021.~~ The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.

(B) If soil is not removed, the lead-contaminated soil shall be permanently covered.

(7) When sealing the work area off from the nonwork area, six (6) mil sheeting shall be used, and all tears, breaks, cracks, and openings in the containment system shall be repaired as they occur.

(8) All persons entering a work area during a lead-abatement project that involves breaking or disturbing lead-painted surfaces shall wear disposable shoe covers that shall be removed upon leaving the work area and placed with lead-abated waste. Any persons entering a work area during lead paint removal activity using a heat gun, scraping, HEPA sanding, or chemical stripping, or during replacement and during the cleanup process shall also wear appropriate respirator protection in accordance with all OSHA requirements found at 29 CFR 1926.62**. In every abatement activity that results in the disturbance of lead-based paint, polyethylene plastic sheeting shall always be placed directly below the work area.

(9) A supervisor shall post warning signs at all entrances and exits to work area. The warning signs posted shall read "Warning Lead Work Area Poison No Smoking or Eating".

(10) Access of nonworkers to abatement work areas shall be limited. The abatement work crew supervisor is responsible for enforcing this limited access. Only the persons informed by the supervisor of potential lead hazards and who have a direct relationship to the project may enter the work area.

(11) Any surfaces that have been stripped with caustic chemicals or that have come into contact with caustic or solvent-based liquid waste shall be cleaned by wet washing until there is no visible residue.

(12) Work areas shall be restricted by barrier tape.

(13) A thorough cleanup of the entire area under active abatement shall occur daily during the entire interior and exterior abatement process. This daily cleanup shall consist of the following:

(A) Lead-abated waste shall be stored in an area inside the property line designated and posted as a lead waste storage area and covered with six (6) mil polyethylene sheeting.

(B) Lead-abated waste shall be stored in locked containers, rooms, trucks, or trailers.

(C) Small debris shall be swept up using a HEPA vacuum and bagged in a six (6) mil polyethylene or double four (4) mil bags and stored in a designated secure area.

(D) Consumable and disposable supplies, including mop heads, plastic sheeting, sponges, and rags, shall be treated as lead-abated waste.

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****This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying from ~~Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center North, Tenth Floor, 100 North Senate Avenue,~~ **the Indiana Department of Health, Indiana Lead and Healthy Homes Program, Fifth Floor, 2 North Meridian Street,** Indianapolis, Indiana 46204. (*Indiana Department of Health; 410 IAC 32-4-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1457; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 10, 2003, 4:24 p.m.: 27 IR 484; readopted filed Jul 14, 2011, 11:42 a.m.: 20110810-IR-410110253RFA; filed Dec 20, 2011, 1:51 p.m.: 20120118-IR-410100734FRA; readopted filed Sep 13, 2017, 4:08 p.m.: 20171011-IR-410170339RFA*) **NOTE: Transferred from the Air Pollution Control Board (326 IAC 23-4-5) to the Indiana State Department of Health (410 IAC 32-4-5) by P.L.57-2009, SECTION 17, effective July 1, 2009.****

SECTION 7. 410 IAC 32-4-9 IS AMENDED TO READ AS FOLLOWS:

410 IAC 32-4-9 Post-abatement clearance procedures

Authority: IC 16-41-39.8-6

Affected: IC 16-41-39.8

Sec. 9. The following post-abatement final visual clearance procedures shall be performed only by a licensed inspector or risk assessor:

- (1) Following an abatement and prior to removal of warning signs or other demarcation, a visual inspection shall be completed by an Indiana licensed inspector or risk assessor to determine if deteriorated, painted surfaces or visible amounts of dust, debris, or residue are still present.
- (2) If deteriorated painted surfaces or visible amounts of dust debris or residue are present, they must be wet wiped or HEPA vacuumed until such conditions are eliminated prior to the continuation of the clearance procedures.
- (3) Following the visual inspection and any post-abatement cleanup required in this rule, clearance sampling for lead-contaminated dust shall be conducted by employing single-surface sampling or composite sampling techniques.
- (4) Dust samples on surfaces for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures.
- (5) Dust samples for clearance purposes shall be taken within a minimum of one (1) hour after completion of final post-abatement clean-up activities.
- (6) The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the target housing or child-occupied facility:

(A) After conducting an abatement with containment between abated and unabated areas:

- (i) one (1) dust sample shall be taken from one (1) interior window sill and from one (1) window trough, if present;
- (ii) one (1) dust sample shall be taken from the floors of each of no less than four (4) rooms, hallways, or stairwells within the containment area; and
- (iii) one (1) dust sample shall be taken from the floor outside the containment area.

If there are fewer than four (4) rooms, hallways, or stairwells within the containment area, then all rooms, hallways, or stairwells shall be sampled.

(B) After conducting an abatement with no containment:

- (i) two (2) dust samples shall be taken from each of no fewer than four (4) rooms, hallways, or stairwells in the target housing or child-occupied facility;
- (ii) one (1) dust sample shall be taken from one (1) interior window sill and one (1) window trough, if present; and
- (iii) one (1) dust sample shall be taken from the floor of each room, hallway, or stairwell selected.

If there are fewer than four (4) rooms, hallways, or stairwells within the residential dwelling or child-occupied facility, then all rooms, hallways, or stairwells shall be sampled.

(C) Following an exterior paint abatement, a visible inspection shall be conducted as follows:

- (i) All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be clean of visible dust and debris.
- (ii) A visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated.
- (iii) If paint chips are present, the chips shall be removed from the site and properly disposed of according to all applicable federal, state, and local requirements.

(D) The rooms, hallways, or stairwells selected for sampling shall be selected according to documented methodologies.

(E) The licensed inspector or risk assessor shall compare the residual lead level, as determined by the laboratory analysis, from each single surface dust sample with applicable clearance levels for lead in dust on floors, interior window sills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level:

- (i) in a single surface dust sample equals or exceeds the applicable clearance levels; or
- (ii) in a composite dust sample equals or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample;

then the sample is a failed sample. All the components represented by the failed sample shall be recleaned and retested until clearance levels are met.

(F) The clearance levels for lead in dust are as follows:

- ~~(i) Forty (40) micrograms per square foot for floors.~~
- ~~(ii) Two hundred fifty (250) micrograms per square foot for interior window sills.~~
- ~~(iii) Four hundred (400) micrograms per square foot for window troughs.~~ **a mass-per-area concentration of lead equal to or exceeding the hazard threshold of a specific building component as set forth by the United States Environmental Protection Agency, 40 CFR Part 745*, effective March 8, 2021.**

***This document is incorporated by reference. Sales of the Code of Federal Regulations are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.**

(Indiana Department of Health; 410 IAC 32-4-9; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1460; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 10, 2003, 4:24 p.m.: 27 IR 487; errata filed Jun 14, 2010, 10:11 a.m.: 20100630-IR-410100396ACA; readopted filed Jul 14, 2011, 11:42 a.m.: 20110810-IR-410110253RFA; readopted filed Sep 13, 2017, 4:08 p.m.: 20171011-IR-410170339RFA) NOTE: Transferred from the Air Pollution Control Board (326 IAC 23-4-9) to the Indiana State Department of Health (410 IAC 32-4-9) by P.L.57-2009, SECTION 17, effective July 1, 2009.